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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE**Applicant Initiated Interview Request Form**

Application No.: 10/679,901 First Named Applicant: El-Haj
 Examiner: Ameesh Shah Art Unit: 3625 Status of Application: Pending

Tentative Participants:

(1) Ameesh Shah (2) Dan McGinnity
 (Fax: 571-273-8116)
 (3) Yogesh Garg (4) _____

Proposed Date of Interview: 2/21/08 Proposed Time: 2:00PM (AM/PM)
 EST

Type of Interview Requested:

(1) ☒ Telephonic (2) ☐ Personal (3) ☐ Video Conference

Exhibit To Be Shown or Demonstrated: ☐ YES ☒ NO

If yes, provide brief description: _____

Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☒ Continuation Sheet Attached

Brief Description of Arguments to be Presented:

See Attached Sheet.

An interview was conducted on the above-identified application on _____.

NOTE: This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

/Daniel T. McGinnity, #55444/

/Ameesh A. Shah/

Applicant/Applicant's Representative Signature

Examiner/SPE Signature

Daniel T. McGinnity

Typed/Printed Name of Applicant or Representative

55,444

Registration Number, if applicable

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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Interview on 2/21/08 at 2:00 EST

During the interview applicant proposes to discuss the §103 rejections. In particular, after careful review, the applicant believes the reliance on the combination of Bandhole/Nanja is deficient for a variety of reasons discussed below.

In light of the remarks and patentability provide below, Applicant would appreciate suggestions from the Examiner regarding subject matter that the Examiner believes is allowable and/or may lead to agreement between the Applicant and Examiner.

Remarks

In making out the rejections of claims 1, 18 and 36, the examiner relies upon the combination of Bandhole/Nanja for installing applications and/or an operating system responsive to selections made in a user interface on an allocated storage. Respectfully, this conclusion is not consistent with the disclosure of Bandhole/Nanja taken as a whole.

Bandhole in paragraph [0028], as indicated by the Examiner (Office Action p. 4.), references and relies upon Nanja as showing user interfaces for specifying the configuration of a computing environment. Thus, Applicant agrees that one of skill in the art would understand Bandhole to rely upon the disclosed user interface techniques of Nanja. The problem with the interpretation forwarded by the Examiner in rejecting claims 1 for example is that Nanja is explicitly and exclusively directed at allocating preconfigured devices/resources. Bandhole relies upon Nanja, as acknowledged by the Examiner. Even further, Bandhole itself contains explicit description that would lead one of skill in the art to conclude that Bandhole is directed to allocating preconfigured resources. This of course naturally follows from Bandhole's reliance on Nanja. Thus, since Bandhole/Nanja are directed exclusively to allocation of preconfigured devices/resources, there is no way Bandhole/Nanja may be combined with Tremain to

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correct the acknowledged defects of Tremain. In the following discussion, the deficiencies of Bandhole/Nanja are addressed in detail.

To begin with the user interfaces of Nanja are to select preconfigured components from an inventory of available components, as the following excerpts from Nanja makes clear:

FIG. 1 is a block diagram of system 100 for allocating processing resources according to the present invention. In FIG. 1, system 100 comprises, among other components customer/architect 101, a web-based interface 102, a computer network such as the Internet 108, configuration/access server system 103, the inventory of resources 105, the infrastructure server 104 for the maintenance of the inventory, and different levels of security 106 and 107. In a first embodiment, customer 101 uses the web-based interface 102 and the Internet 108 to interact with server system 103 for the purpose of allocating resources, as described below. The server 103 on receiving the information from the customer 101 allocates resources based on the customer's requirements and the availability of resources in the inventory 105. Nanja, col. 5 lines 13-26.

Although not shown, one of ordinary skill in the art will realize that the "inventory" may include various machine and device types. For example, such devices may include mobile/laptop computers, embedded computing devices, hand-held computers, personal digital assistants, point-of-sale terminals and smart-card devices without limitation *Nanja, col. 5 lines 36-41.*

Web page 3 displays a list--by default--of configurations available. The user can select one of these options by selecting the menu items as shown in the screen shot for web page 4 of FIG. 6. If the user is revisiting an environment that has already been configured, then the environment will also be displayed (not shown).

Based on the selection made by the user, the configuration server 103 allocates a computer with the requested operating system and other application software. Nanja, col. 6 lines 51-64.

(emphasis added)

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Thus, in accordance with the above excerpts from Nanja, a system for allocating existing and pre-configured computers is described. In particular, a web interface may list available configurations. When a user makes selections, “the configuration server 103 allocates a computer with the requested operating system and other application software”. More particularly, the server 103 allocates a computer from an inventory 105, which might include various mobile/laptop computers, embedded computing devices, hand-held computers, personal digital assistants, point-of-sale terminals and smart-card devices.

Thus, Nanja is not consistent with the features of claim 1. More particularly, allocating a computer with the requested operating system is not the same as installing an operating system to the virtual non-volatile storage because allocating a computer simply means assigning a computer that already has the operating system installed. Nanja describes exclusively a system in which real computers are pre-configured and made available in an inventory. Then, when certain characteristics are selected via the user interfaces, a computer having the selected characteristics is allocated from the inventory. This is an entirely different approach than, for example:

(1) “output a user interface having one or more user selectable portions to enable subscriber selection of configuration options for respective computing services comprising at least: selection of a virtual non-volatile storage capacity from at least two virtual non-volatile storage capacity configuration options; and selection of an operating system from at least two operating system options, said server computer operable to install the selected operating system to a virtual non-volatile storage having the selected storage capacity to provide respective computing services”;

(2) “first virtual non-volatile storage associated uniquely with said first subscriber to provide said first computing services and a second virtual non-volatile storage associated uniquely with said second subscriber to provide said second computing services”; and

(3) “first virtual non-volatile storage being configured according to a first selected virtual non-volatile storage capacity and a first selected operating system based upon

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configuration options selected by said first subscriber, and said second virtual non-volatile storage being configured according to a second selected virtual non-volatile storage capacity and a second selected operating system based upon configuration options selected by said second subscriber", as in claim 1 (emphasis added). are similar. Thus, Nanja does not correct the defects of Tremain acknowledged by the Examiner in the above excerpted portion of the Office Action. While argument discussed with respect to claim 1, the arguments with respect to claim 18 and 36 are similar and omitted here for the sake of brevity.

Further as noted, Bandhole describes techniques similar to Nanja, even going as far as explicitly relying upon Nanja for the user interfaces used therein. Thus, one must conclude that Bandhole imports the pre-configuration techniques of Nanja. However, one does not need to speculate as to this point because this is exactly what Bandhole describes explicitly and clearly. For example, Bandhole states:

In one embodiment of the present invention a system using the framework 342 is implemented for providing users with computing as a product. More specifically, in this embodiment a customer can choose specific components required for computing and the system will package the components to provide an environment that can be used for computing by the customer. For instance, the email customer may specify the preferred email software. The system will choose a compatible operating system, a compatible client device running the operating system and the email software, acquire licenses, network connections etc.; the system will then package these resource to provide an email client product to the customer. The customer pays for the product as a whole not separately for the hardware, software, or for the network connection. Also, the customer need not maintain any of the components and need only learn to access the email system as a whole. *Bandhole*, paragraph [0051].
(emphasis added)

Again, it is evident from the above statement that a customer chooses available options and then the system chooses a preconfigured device having those options. For instance, if

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a preferred email software is desired then "a compatible operating system" is determined and "a compatible client device running the operating system and the email software" is selected from an inventory of available devices. However, Bandhole in view of Nanja does not disclose, teach, or suggest that the preferred email software is installed responsive to selection via the user interface. The selection of a preconfigured device as in Bandhole/Nanja simply is not equivalent to the features recited in claim 1.

Based on a prior interview conducted in this case, the Examiner appears to place considerable weight on statements from Bandhole paragraph [0055] discussing configuration of a computing environment. Accordingly, Applicant will address paragraph [0055] which states;

Once the customer has selected the components the computing environment can be configured in step 420. For instance, the user may specify that the Apache web server software has to run on Linux web servers; or that the web servers and application server(s) must be connected to the same network; or that two different networks must be connected to each other by a high bandwidth connection; or that a network must have a gateway to the Internet. Step 420 is optional because the system may present abstractions for pre-configured components. Each customer can save the environment configured as a new abstraction. This allows the system to present the new abstraction as a pre-configured component. For instance, a configuration of an Intel x86-compatible computer running a Windows 98 operating system and a WordPerfect word processing system may be presented as an "Easy Word Processing" component. If this configuration meets a customer's requirements then the customer need not do any further work. Of course, the customer may pick a pre-configured component and use it as part of another environment. This method of configuring, saving and presenting environment configurations saves time and effort for customers as well as providers. Environment can be used again and again without going through the configuration step. Commonly used environment configurations can be provided by service providers and used by large numbers of customers. *Bandhole, paragraph [0055]*.

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Examiner, in contradiction to the express statements from Bandhole and Nanja discussed above, apparently interprets the statement "Once the customer has selected the components the computing environment can be configured" to be a basis for the installation of desired and selected options on to a computer after it has been allocated to a user and responsive to the users selection of those option via a user interface. Applicant respectfully disagrees with this interpretation and asserts that the conclusion is not consistent with Bandhole/Nanja.

Respectfully the Examiner's interpretation is not supported by Bandhole/Nanja. While Applicant appreciates the Examiner's interpretation of this portion of Bandhole, Bandhole/Nanja taken as whole suggests a more compelling conclusion. Given that Bandhole and Nanja both appear to exclusively describe allocating of preconfigured resources, one of skill in the art would be compelled to reconcile paragraph [0055] of Bandhole with the rest of the disclosure, such as with paragraph [0051] and Nanja, rather than import an entirely new and contradictory meaning.

In this light, Applicant understands paragraph [0055] of Bandhole to use configuration in the sense of setting up or choosing of aspects for the described DCEs, which per Bandhole (particularly paragraph [0051]) are limited to packaging of pre-configured components for a specified system. Thus, in accordance with paragraph [0055] the user might, in addition to selecting available components, specify additional constraints for a preconfigured system which is to be allocated for use by the user. For example, specifying per paragraph [0055] that "the Apache web server software has to run on Linux web servers; or that the web servers and application server(s) must be connected to the same network". Then, as explicitly stated in paragraph [0051], the system will take the specified DCE configuration (which might for example be specified via a user interface of Nanja) and find a compatible device (e.g., a pre-configured device), which already has the selected options. This is consistent with what Bandhole/Nanja actually describe and is what these references convey to those of skill in the art.

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Moreover, paragraph [0055] itself suggests that a “customer may pick a pre-configured component and use it as part of another environment. This method of configuring, saving and presenting environment configurations saves time and effort for customers as well as providers. Environment can be used again and again without going through the configuration step. Commonly used environment configurations can be provided by service providers and used by large numbers of customers”. Thus, what this portion of [0055] continues to describe is customer selection of a set of pre-configured components that may be packaged in a DCE. These DCE’s may be used again and even used by large numbers of customers. But the DCE’s are simply “abstractions for pre-configured components” and not allocated storage that is configured responsive to selection of additional constraints.

The configuration of the environment or DCE as used in [0055] would not be understood to mean that a user is able to install desired operating system applications and so forth to a device that has been allocated. There is nothing within Bandhole or Nanja, whether taken alone or in combination, which supports that interpretation. The proposed combination of Tremain with Bandhole/Nanja consists of combining a subscription service with a system in which preconfigured computers are allocated to users. However, no matter how they are combined, the combination would still lack a virtual non-volatile storage allocated uniquely to a subscriber and configured responsive to user selections as is contemplated in claim 1. Thus, the combination of Bandhole/Nanja does not correct the acknowledged defects of Tremain. Again, arguments with respect to claims 18 and 36 with respect to Bandhole/Nanja are similar. The claims as presently recited are allowable for at least these reasons.